

FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) FEDERAL INSURANCE MITIGATION ADMINISTRATION (FIMA) APPEAL DECISION

FEMA Flood Insurance Appeal Decision #B6

OVERVIEW

The policyholder filed an appeal on March 13, 2020, alleging their flood insurance carrier (hereinafter “insurer”) improperly denied their claim under the Standard Flood Insurance Policy (SFIP)¹ for damages to covered property arising from a flood event in September 2019.²

In its review, FEMA found the following facts relevant:

- At the time of loss, the policyholder had \$500,000 of building coverage and \$8,000 of contents coverage.
- The policyholder purchased their flood insurance on September 19, 2019 and the insured issued the policy on the same day, as the 30-day waiting period was waived due to a loan transaction. The policy went into effect at 12:01 am on September 19, 2019.
- On September 26, 2019, the policyholder notified the insurer of a flood loss.
- The insured property is a 44-unit residential apartment building on a slab foundation.
- In October 2019, an adjuster inspected the property and measured waterlines of 13 inches on the exterior and six inches on the interior of the ground-floor units. The adjuster prepared and submitted his estimate report to the insurer for review.
- In a letter dated January 2020, the insurer denied coverage because the flood event was already in progress prior to the date the policy first became effective.
- The policyholder appeals the insurer’s decision to deny the claim based on the flood-in-progress exclusion. In support of the appeal, the policyholder references a previously submitted report from the county Flood Control District.

RULES

The insurer will pay the policyholder for direct physical loss by or from flood to covered property, provided the policyholder complies with all terms and conditions of the SFIP.³

¹ See 44 C.F.R. § 61.13 (2018); General Property Form available at 44 C.F.R. pt. 61 App. A (2) [hereinafter “SFIP”].

² The policyholder files this appeal under 44 C.F.R. § 62.20. The appeals process is available after the insurer issues a written denial, in whole or in part, of the policyholder’s claim. The policyholder’s appeal and related documents concerning the appeal, claim, or policy are on file with FEMA, Federal Insurance and Mitigation Administration, Federal Insurance, Policyholder Services Division, Appeals Branch [hereinafter “Appeal File”].

³ See SFIP (I), (II)(B)(12).

The SFIP excludes a loss directly or indirectly caused by a flood that is already in progress at the time and date the policy term begins.⁴

ANALYSIS

The policyholder appeals the insurer's decision to deny the claim and contests the determination that a flood was already in progress prior to the effective date of the purchased flood policy.

The insurer will pay the policyholder for direct physical loss by or from flood to covered property, provided the policyholder complies with all terms and conditions of the SFIP. Here, the policyholder purchased a flood policy for the insured property on September 19, 2019. The policyholder paid the required premium and advised the insurer that there was an active lienholder on their mortgage, as documented in the insurer's claim file. As such, and in accordance with the National Flood Insurance Program (NFIP), there was a waiver of the standard 30-day waiting period, with coverage effective immediately.

The SFIP excludes a loss directly or indirectly caused by a flood that is already in progress at the time and date the policy term begins. FEMA reviewed the flood report from the county's Flood Control District. The report states that after sunrise on September 19, 2019 extremely heavy rainfall began to slowly progress southwest into the northeastern part of the county throughout September 19, 2019. The report writes that extremely heavy rainfall rates accompanied this band and resulted in rapid flash flooding across the northeast, north central, and central portions of the county from mid-morning to the early evening on September 19, 2019.

Based on this report, FEMA finds the flash flooding in the area of the described location did not start until September 19, 2019. FEMA searched the NFIP flood claim database for the zip code of the insured location. This search found that 77 of the 79 reported claims in the policyholder's zip code reported claims with a date of loss of September 19, 2019. FEMA also found that various news articles state that the flooding in this area of the county did not start until September 19, 2019.

Based on the information presented, FEMA does not agree that a flood was already in progress in the area surrounding the insured's property prior to September 19, 2019. All supporting documentation shows that this area experienced flash flooding from a tropical storm due to a rapid accumulation of rainfall on September 19, 2019. The insurer has not presented any clear evidence in support that flooding was already in progress for this area prior to September 19, 2019. Therefore, FEMA overturns the denial and instructs the insurer to re-evaluate the policyholder's flood insurance claim.

The policyholder should continue to cooperate with the insurer and provide them with the information needed to resolve their claim. Any adjustment of the claim remains under the direction of the insurer in accordance with all terms and conditions of the SFIP.

CONCLUSION

Based on the facts and analysis above, FEMA overturns the insurer's decision to deny the claim, as a flood was not in progress at the described location prior to the effective date of the policy.

⁴ See SFIP (V)(B)(1).

